

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JUDY SHERBURN, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

DULUTH TRADING COMPANY, LLC,
Defendant.

AMENDED
OPINION AND ORDER

11-cv-438-wmc

Pursuant to a joint motion, the parties seek final approval of their settlement of this hybrid action alleging wage and hour violations as a collective action under 29 U.S.C. § 216(b) of the Fair Labor Standards Act (“FLSA”) and as a class action pursuant to Federal Rule of Civil Procedure 23 under the wage and hour laws of Wisconsin. (Dkt. #46.) After review and revision to the notice and settlement, the court preliminarily approved the settlement and certified a Rule 23 class for that purpose. (Dkt. #38.)

Today, the court held a fairness hearing at which only counsel appeared. Based on the parties’ submissions, the lack of any objections, and the entire record in this case, the court concludes that the parties’ settlement is fair, reasonable and adequate pursuant to Federal Rule of Civil Procedure 23(e) and that the settlement represents a fair and reasonable resolution of a bona fide dispute over FLSA provisions.

Also before the court is class counsel’s petition for costs and attorneys fees. (Dkt. #43.) Class counsel seeks \$19,000 in attorney’s fees, representing roughly 33% of the settlement fund which includes \$1,124.80 in costs. As set forth in class counsel’s brief in

support of this award (dkt. #44), a declaration by one of class counsel's attorneys William E. Parsons (dkt. #45), and class counsel's detailed time records (dkt. #43-1) justifying a higher fee, the court concludes that class counsel has expended considerable resources litigating this matter and that the requested award is consistent with the market rate for similar cases. Accordingly, the court will award attorney's fees and costs in the total amount of \$20,124.80.

ORDER

IT IS ORDERED that:

- 1) The parties' joint motion for final approval of the settlement agreement (dkt. #46) is GRANTED. The parties are directed to carry out its terms and provisions.
- 2) The enhancement payment to the class representative Judy Sherburn in the amount of \$1,000.00 is APPROVED.
- 3) Class counsel's petition for costs and attorneys' fees (Dkt. #43) is GRANTED in the requested amount of \$19,000.00.
- 4) Settlement payments as defined in the court's preliminary approval order are APPROVED.
- 5) This action is dismissed on the merits with prejudice, and the clerk of the court is directed to close this case.

Entered this 23rd day of July, 2012.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge